



U.S. Department of Justice

Ronald C. Machen Jr.
United States Attorney

District of Columbia

*Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530*

October 10, 2012

Eugene Ohm, Esq.
Gabriel Diaz, Esq.
The Public Defender Service
633 Indiana Avenue, NW
Washington, DC 20004

Re: **UNITED STATES v. ALEXIS PINEDA,**
Case No. 2011 CF1 5597

Dear Counsel:

This letter is to confirm the plea offer for your client, Alexis Pineda. This plea offer will remain open until October 12, 2012. However, the Government reserves the right to revoke this plea offer at any time before your client enters a guilty plea in this case. If your client accepts the terms and conditions set forth below, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement between your client and the Office of the United States Attorney for the District of Columbia. The terms of the offer are as follows:

1. Your client Alexis Pineda agrees to admit guilt and enter a plea of guilty to the following offenses: Second Degree Murder While Armed, in violation of D.C. Code §§ 22-2104, 22-4502. Your client understands that the offense of Second Degree Murder While Armed carries a potential maximum penalty of a period of incarceration of not less than five years and not more than life.
2. Your client understands that the Government will reserve stepback pending sentencing, will waive and withdraw any sentencing enhancement papers, and will reserve allocation at sentencing, subject to the terms set forth in paragraph 6 of this agreement.
3. Your client understands that the Government agrees that it will dismiss any and all greater and remaining counts of the indictment at the time of sentencing.



4. The parties further agree that your client, after taking an oath to tell the truth, shall agree to the attached factual proffer in open court on the date of the plea.

5. Your client understands that subject to the terms and conditions set forth in paragraph 6 below, the Court may utilize the District of Columbia Sentencing Commission's Voluntary Sentencing Guidelines in imposing the sentence in this case.

6. Your client and the Government agree that a sentence of not less than 16 years (192 months) and not more than 26 years (312 months) of incarceration, is the appropriate sentence in this case. Your client and the Government agree, pursuant to Rule 11(e)(1)(C) of the Superior Court Rules of Criminal Procedure, to present this plea agreement to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(e)(3) of the Superior Court Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(e)(4) of the Superior Court Rules of Criminal Procedure. Upon such a rejection, pursuant to Rule 11(e)(4), neither party would then be bound by this plea agreement. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(e)(4), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement.

7. Your client agrees that this letter is binding on the Government, but not binding on the Court, and that he cannot withdraw this plea at a later date because of the harshness of any sentence imposed by the Court.

8. Your client acknowledges and has been made aware that pursuant to the Innocence Protection Act, that there may be physical evidence which was seized from the victim, crime scene or from your client or from some other source that can be tied to your client that could contain probative biological material. Your client understands and agrees that in order to plead guilty in this case, your client must waive and give up DNA testing in this case and must execute the attached written waiver of DNA testing. Your client further understands that should he waive and give up DNA testing now, it is unlikely that he will have another opportunity to have the DNA tested in this case.

9. Your client also agrees that if any illegal firearms or illegal contraband were seized by any law enforcement agency from the possession of or the direct or indirect control of your client, then your client consents to the administrative forfeiture, official use and/or destruction of said firearms or contraband by any law enforcement agency involved in the seizure of these items.

10. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute. In particular, your client knowingly and voluntarily waives or gives up his right against self-incrimination with respect to the offense(s) to which your client is pleading guilty before the


Court which accepts your client's plea. Your client also understands that by pleading guilty your client is waiving or giving up your client's right to be tried by a jury or by a judge sitting without a jury, the right to be assisted by an attorney at trial and the right to confront and cross-examine witnesses.

11. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

Respectfully,

RONALD C. MACHEN
UNITED STATES ATTORNEY

By:

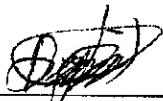

SHANA L. FULTON
ALAN BOYD
ASSISTANT U.S. ATTORNEYS

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and factual proffer and have discussed it with my attorneys, Eugene Ohm and Gabriel Diaz, Esquires. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses set forth herein.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: 10/12/12




Defendant Alexis Pineda

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, Alexis Pineda, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely set forth the entire plea agreement.

Date: 10/10/12



Eugene Ohm, Esq.
Gabriel Diaz, Esq.
Attorneys for Alexis Pineda

PROFFER OF FACTS

Had this case gone to trial the Government's evidence would have shown beyond a reasonable doubt that on March 27, 2011, at approximately 2:25 a.m., defendant went with friends to El Sauce restaurant located at 1227 11th Street, NW, Washington, D.C. While at the crowded restaurant, defendant encountered the victim and shot the victim one time in the victim's chest with a loaded revolver. Defendant was then tackled by other restaurant patrons and the revolver was taken from defendant's hand. The restaurant patrons then detained defendant until the police arrived and arrested him. The victim died within hours of the shooting. Defendant had consumed alcohol prior to the shooting.

The government's evidence would have shown beyond a reasonable doubt that defendant caused the death of the victim. At the time defendant did so, defendant intended to kill or seriously injure the victim, or defendant acted in conscious disregard of an extreme risk of death or serious bodily injury to the victim. Defendant disputes that he intended to kill or seriously injure the victim. However, defendant agrees that he caused the death of the victim and that defendant acted in conscious disregard of an extreme risk of death or serious bodily injury to the victim.

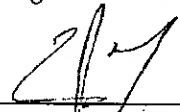
DEFENDANT'S ACKNOWLEDGMENT

I have read and discussed the Government's Proffer of Facts with my attorneys, Eugene Ohm and Gabriel Diaz, Esquires. I agree, and acknowledge by my signature that this Proffer of Facts is true and correct.

Date: 10/12/12


Defendant Alexis Pineda

Date: 10/12/12


Eugene Ohm, Esq.
Gabriel Diaz, Esq.
Attorneys for Alexis Pineda

